

Health and Human Services

333.212

GAO established. OGC–GLD shall notify the Contracting Officer of the submittal date after GAO has finalized its requirements. If the Contracting Officer is not notified about a changed schedule, the timelines for a regular bid protest outlined in *FAR 33.104(a)(3)(i)* shall apply.

Subpart 333.2—Disputes and Appeals

333.203 Applicability.

(c) The Secretary has designated the Civilian Board of Contract Appeals (CBCA) as the authorized “Board” to hear and determine disputes for the Department.

333.209 Suspected fraudulent claims.

The Contracting Officer shall submit any instance of a contractor’s suspected fraudulent claim to the OIG for investigation.

333.211 Contracting Officer’s decision.

(a)(2) The Contracting Officer shall refer a proposed final decision to OGC–GLD, for advice as to the legal sufficiency and format before sending the final decision to the contractor. The Contracting Officer shall provide OGC–GLD with the pertinent documents with the submission of each proposed final decision.

(4)(v) When using the paragraph in *FAR 33.211 (a)(4)(v)*, the Contracting Officer shall insert the words “Civilian” before each mention of the term “Board of Contract Appeals.”

(h) At any time within the period of appeal, the Contracting Officer may modify or withdraw the final decision. If a contractor has appealed the final decision to the CBCA, the Contracting Officer shall forward the recommended action to OGC–GLD with a supplement to the contract file that supports the recommended correction or amendment.

333.212 Contracting Officer’s duties upon appeal.

(a) The rules set forth in the “Rules of the Civilian Board of Contract Appeals,” or the rules established by the U.S. Court of Federal Claims, as appropriate, shall govern appeals.

(b) The OGC–GLD is designated as the Government Trial Attorney to represent the Government in the defense of appeals before the CBCA. OGC–GLD shall provide the decision by CBCA to the appropriate Contracting Officer for compliance in accordance with the CBCA’s decision.

(c) If an appeal is filed with the CBCA, the Contracting Officer shall assemble a file, within 30 days of receipt of an appeal or notification that an appeal has been filed, that consists of all documents pertinent to the appeal, including the following:

(1) The decision and findings of fact from which the appeal is taken.

(2) The contract, including specifications and pertinent modifications, plans and drawings.

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued.

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witness on the matter in dispute made prior to the filing of the notice of appeal with the CBCA.

(5) Any additional information considered pertinent. The Contracting Officer shall furnish the appeal file to the Government Trial Attorney for review and approval. After approval, the Contracting Officer shall prepare four copies of the file—*i.e.*, one for the CBCA, one for the appellant, one for the Government Trial Attorney, and one for the contracting office.

(d) At all times after the filing of an appeal, the Contracting Officer shall render whatever assistance is requested by the Government Trial Attorney. When an appeal is set for hearing, the Contracting Officer shall provide Government witnesses and specified physical and documentary evidence to the Trial Attorney. The Trial Attorney shall ensure the presence of all witnesses and documentary evidence at both the prehearing conference and hearing.

(e) If a contractor, which has filed an appeal with the CBCA, elects to accept fully the decision from which the appeal was taken, or any modification to